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In re Application of :  
AL-SULAIM et al. :  
U.S. Application No.: 10/576,002 :  
PCT No.: PCT/EP03/11550 : DECISION ON PETITION  
Int. Filing Date: 17 October 2003 :  
Priority Date: None :  
Attorney Docket No.: 4000042024 :  
For: METHOD FOR OPERATING AN :  
OUTPUT DEVICE :

This decision is issued in response to applicants' "Request for Refund" filed on 12 December 2006.

**BACKGROUND**

On 17 April 2006, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by the basic national fee; a copy of the international application; and a preliminary amendment.

In response to the Notification of Missing Requirements dated 19 October 2006, applicants submitted a declaration/power of attorney and a request for refund under 37 CFR 1.28(a). The submission was dated 12 December 2006.

**DISCUSSION**

37 CFR 1.28(a) provides:

A refund pursuant to §1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee.

In the present case, the 12 December 2006 request for a refund of a portion of the fees paid upon filing the present application based upon the subsequent establishment of

small entity status was not made within three months of the payment of the large entity fees on 17 April 2006. Accordingly, petitioner is not entitled to a refund of a portion of the large entity fees paid upon filing the present application.

It is noted that petitioner is entitled to one-half of the surcharge for filing an oath or declaration later than 30 months from the priority date

### CONCLUSION

The request for refund under 1.28(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request for Refund." No petition fee is required. Extensions of time under 37 CFR 1.136(a) are permitted.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.



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